



**STATE OF WISCONSIN  
JOINT LEGISLATIVE COUNCIL**

**REPORT NO. 9 TO THE 1999 LEGISLATURE**

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**LEGISLATION ON DETERMINATION OF A SCHOOL CALENDAR**

1999 ASSEMBLY BILL 494, Relating to a Public Hearing on a School  
Calendar Prior to Engaging in Collective  
Bargaining

Legislative Council Staff

October 21, 1999

One East Main Street, Suite 401

Madison, Wisconsin

RL 99-9

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JOINT LEGISLATIVE COUNCIL  
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LEGISLATION ON DETERMINATION OF A SCHOOL CALENDAR

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\* This Report was prepared by Ronald Sklansky, Senior Staff Attorney, Legislative Council Staff.



**PART I**

**KEY PROVISIONS OF LEGISLATION; COMMITTEE  
AND JOINT LEGISLATIVE COUNCIL VOTES**

**A. 1999 ASSEMBLY BILL 494, RELATING TO A PUBLIC HEARING ON A SCHOOL  
CALENDAR PRIOR TO ENGAGING IN COLLECTIVE BARGAINING**

- **School District Responsibility to Hold Public Hearing**

Provides that a school district may not collectively bargain with school district professional employees before the school district holds a public hearing on the subject of the establishment of the school calendar. The hearing requirement first applies to a collective bargaining agreement that expires or is extended, modified or renewed on the first day of the sixth month after the effective date of the legislation.

**B. COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES**

By a mail ballot, dated April 20, 1999, the Special Committee on the School Calendar voted to recommend WLCS: 0098/1 to the Joint Legislative Council for introduction in the 1999-00 Session of the Legislature on a vote of Ayes, 14 (Reps. Handrick, Vrakas and Staskunas; Sens. Breske, Fitzgerald and Zien; and Public Members Becker, Donaldson, Garb, Gehl, Kalka, Kussow, Lump and Stewart); Noes, 7 (Reps. Lehman, Olsen and Schneider; and Public Members Christman, Pearson, Schoenike and Turner); and Not Voting, 1 (Rep. Ward).

At its September 22, 1999 meeting, the Joint Legislative Council voted to introduce WLCS: 0098/1 by a vote of Ayes, 12 (Sens. Risser, Cowles, Ellis, Rosenzweig and Zien; and Reps. Kelso, Foti, Freese, Gard, Jensen, Seratti and Stone); Noes, 8 (Sens. Burke, Chvala, Erpenbach and Grobschmidt; and Reps. Bock, Huber, Krug and Schneider); and Absent, 2 (Sens. George and Robson). The proposal was introduced as 1999 Assembly Bill 494.



## **PART II**

### **COMMITTEE ACTIVITY**

#### **A. ASSIGNMENT**

The Joint Legislative Council established the Special Committee on the School Calendar and appointed its chairperson by a June 24, 1998 mail ballot. The Special Committee was directed to study issues associated with the school calendar, including the provision of distance education programs, the operation of year-around school programs, the authority to set the calendar and the advantages and disadvantages of harmonizing the calendars and schedules of schools and other institutions of learning on a statewide or regional basis.

The Joint Legislative Council appointed the members of the Special Committee by August 21 and September 4, 1998 mail ballots. The membership consisted of seven Representatives, three Senators and 12 public members. A membership list of the Joint Legislative Council is included in **Appendix 1**. A list of the Committee membership is included in **Appendix 2**.

#### **B. SUMMARY OF MEETINGS**

The Special Committee held three meetings at the State Capitol in Madison on the following dates:

December 16, 1998  
January 25, 1999  
March 22, 1999

At the December 16, 1998 meeting, the Special Committee received testimony from Gerald Freitag (Superintendent, Franklin Public Schools, representing the Wisconsin Association of School District Administrators), Edward Lump (Executive Vice President, Wisconsin Restaurant Association), Greg Weyenberg and Ken Opin (Wisconsin Federation of Teachers), Ken Cole and Bill Cosh (Wisconsin Association of School Boards), Representative Joan Spillner (South Central Instructional Network Group), Susan Donaldson (Association of Wisconsin Tourism Attractions) and Bob West (Wisconsin Education Association Council). The speakers in general discussed the advantages and disadvantages of a statutorily mandated commencement date for K-12 public schools. The speakers and the members of the Special Committee debated the impacts of such a mandate on the tourism industry, local control of school issues, distance education, education of teachers and students, family values and extracurricular activities.

At the January 25, 1999 meeting, the Special Committee received testimony from Chester Gerlach, representing the Association of Wisconsin Tourism Attractions. Along with Mr. Gerlach, Sharon Chamberlain of Chamberlain Research testified that 67% of the respondents to a survey were somewhat supportive of legislation that would require all public schools, K-12, to start school after September 1. The Special Committee also received information from the

Department of Tourism suggesting that a statutorily mandated school commencement date in September would have positive impacts on social trends, tourism and governmental revenues. For example, the department estimated that increases in August travel could result in increased state revenues of approximately \$6.5 million and increased local government revenues of approximately \$4.5 million.

At the March 22, 1999 meeting, the Special Committee considered numerous proposals regarding the school calendar. Motions regarding the following issues did not carry:

1. To maintain current law relating to the school calendar.
2. To mandate that school commence no earlier than August 27, to expand the school year to 185 days and to increase necessary funding.
3. To mandate the commencement of the school term after September 1, except that a school board could hold athletic contests or practices before September 2, schedule in-service days or work days before September 2 or hold school year-around.
4. To make the establishment of the school calendar a permissive subject of collective bargaining for municipal employers.
5. To require school boards to give notice to all parents of a public hearing on the school calendar.
6. To establish a year-around school system.

As noted earlier in the report, the Special Committee approved only WLCS: 0098/1, relating to a public hearing on a school calendar prior to engaging in collective bargaining.

### **C. STAFF MATERIALS AND OTHER MATERIALS**

**Appendix 3** lists all of the materials received by the Special Committee on the School Calendar. In addition to these listed materials, Legislative Council Staff prepared one bill draft for the Special Committee and a summary of each of the Special Committee meetings. The following document, prepared by the Legislative Council Staff, may be of particular interest to persons interested in the work of the Committee:

- Staff Brief 98-12, *Overview of Laws and Legislation in Wisconsin and Other States Relating to Establishing the School Calendar* (December 8, 1998).

### **PART III**

#### **BACKGROUND; DESCRIPTION OF BILL**

This Part of the Report provides background information on, and a description of, Assembly Bill 494, which was recommended by the Special Committee on the School Calendar and introduced by the Joint Legislative Council.

#### **1999 ASSEMBLY BILL 494, RELATING TO A PUBLIC HEARING ON A SCHOOL CALENDAR PRIOR TO ENGAGING IN COLLECTIVE BARGAINING**

##### **A. BACKGROUND**

###### **1. Elementary Schools and High Schools**

Sections 120.12 (15) and 120.44 (2), Stats., provide that 180 days of school must be held during each school term. [See also ss. 121.006 (2) (a) and 121.02 (1) (f) 1., Stats.]

Within the confines of the 180-day requirement for the terms of elementary schools and high schools, school districts have the general responsibility of scheduling the actual days of attendance. Section 120.12 (1) and (2), Stats., require the school board of a common or union high school, among other things, to manage the affairs of the school district and exercise general supervision over the schools of the school district. Similarly, under s. 120.44 (2), Stats., the school board of a unified school district is required to manage, control and supervise the public schools under its jurisdiction. The governing statutes for a first class city (i.e., the City of Milwaukee) are more specific. Section 119.18 (6), Stats., generally provides that a school board in a first class city may determine the school calendar and vacation periods for each school year for the regular day schools, summer schools, social centers and playgrounds. Further, s. 119.18 (8), Stats., authorizes the school board in a first class city to determine on which national, state and local legal holidays and for which educational conventions the public schools must be closed.

###### **2. School Calendar as a Subject of Collective Bargaining**

Section 111.70 (2), Stats., provides that school district employees have the right to bargain collectively with their employing school district. [See also s. 111.70 (1) (i) and (j), Stats., which define the terms “municipal employee” and “municipal employer,” respectively.] Section 111.70 (1) (a), Stats., defines the term “collective bargaining” in part to mean the effort of a municipal employer and municipal employees to meet and confer in good faith, with the intention of reaching an agreement, or to resolve questions arising under an agreement, with respect to wages, hours and conditions of employment.

With respect to all school districts except a school district in a first class city, ss. 120.12 (15) and 120.44, Stats., state that the statutes are not to be construed to eliminate a school



district's duty to bargain with an employee's collective bargaining representative over any calendaring proposal that is primarily related to wages, hours and conditions of employment. In a school district in a first class city, a school calendaring proposal is subject to collective bargaining in accordance with the decision of the Wisconsin Supreme Court in *City of Beloit v. Wisconsin Employment Relations Commission*, 73 Wis. 2d 43, 242 N.W.2d 231 (1976). In this case, the court differentiated between those instances in which a school district is required to collectively bargain, may collectively bargain if it chooses to do so and should not collectively bargain at all. The court stated that a school district is required to collectively bargain only with respect to wages, hours and conditions of employment and, therefore, the subject of school calendaring must be collectively bargained when the calendaring primarily relates to wages, hours and conditions of employment. [For a similar conclusion interpreting a predecessor to s. 111.70, Stats., see *Joint School District No. 8 v. Wisconsin Employment Relations Board*, 37 Wis. 2d 483, 155 N.W.2d 78 (1967).]

### **3. University of Wisconsin**

Unlike elementary schools and high schools, the University of Wisconsin (UW) System operates under a statutorily mandated instruction commencement date. Section 36.11 (16), Stats., provides that the Board of Regents must ensure that fall semester classes at any institution, except medical school classes and fourth-year classes at the School of Veterinary Medicine, commence after September 1.

### **4. Consideration by the Special Committee**

In discussing the issues concerning a statutorily mandated commencement date for K-12 public schools, some members of the Special Committee expressed their opinion that local disputes over the commencement of the school calendar (i.e., the date that school starts) begin with the unresponsiveness of a local school board to concerns of the residents of the school district. They indicated that the following problems occur with respect to school board consideration of the commencement of a school calendar:

- a. The school board does not invite public testimony regarding the school calendar.
- b. The school board does not specifically create a place on an agenda for discussing the commencement of the school calendar and instead relegates any such discussion to a catchall category of public commentary at the end of a meeting agenda.
- c. Residents of the school district are intimidated by the school board and fear retaliation against their children.

Various members of the Special Committee expressed their opinion that a more structured debate concerning the commencement of the school calendar would help to resolve local disputes on this issue.

**B. DESCRIPTION OF BILL**

Assembly Bill 494 provides that a school district may not collectively bargain with school district professional employees before the school district holds a public hearing on the subject of the establishment of the school calendar. The hearing requirement first applies to a collective bargaining agreement that expires or is extended, modified or renewed on the first day of the sixth month after the effective date of the legislation.

RS:ksm;jal



**APPENDIX 1**

**JOINT LEGISLATIVE COUNCIL**

s. 13.81, Stats.

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**APPENDIX 2**

**THE SCHOOL CALENDAR,  
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**STUDY ASSIGNMENT:** The Committee is directed to study issues associated with the school calendar, including the provision of distance education programs, the operation of year-around school programs, the authority to set the calendar, and the advantages and disadvantages of harmonizing the calendars and schedules of schools and other institutions of learning on a statewide or regional basis. The Special Committee shall report its recommendations to the Joint Legislative Council by May 1, 1999. [Based on 1997 Assembly Joint Resolution 66; May 7, 1998 letter from Rep. Joseph Handrick; May 6, 1998 letter from Rep. Marlin Schneider; and May 15, 1998 letter from 16 members of the Assembly.] Established and Chairperson appointed by a June 24, 1998 mail ballot; members appointed by August 21 and September 4, 1998 mail ballots.

**22 MEMBERS:** 3 Senators; 7 Representatives; and 12 Public Members.

**LEGISLATIVE COUNCIL STAFF:** Don Salm, Senior Staff Attorney; Ron Sklansky, Senior Staff Attorney; and Julie Learned, Administrative Staff.

(1) Appointed by a November 13, 1998 mail ballot to replace Esther Letven, who was unable to serve.



**APPENDIX 3**

**COMMITTEE MATERIALS**

**Staff Materials**

1. Staff Brief 98-12, *Overview of Laws and Legislation in Wisconsin and Other States Relating to Establishing the School Calendar* (December 8, 1998).
2. Memo No. 1, *Minimum Number of Days of School to be Held in a Year* (January 11, 1999).
3. Memo No. 2, *Selected School Calendars for the School Year 1998-1999* (January 19, 1999).
4. Memo No. 3, *State-by-State Comparison of Minimum School Years and 1998 SAT and ACT Scores* (January 14, 1999).
5. Memo No. 4, *Summary of Legislative Proposals* (March 12, 1999).
6. Memo No. 5, *Current Law and Available Statistics Relating to Home-Based Private Educational Programs (Home Schools); Availability of School Calendar Information on Home Schools* (March 15, 1999).

**Other Materials**

1. *Statewide Calendar 1998 Task Force Recommendations*, submitted by Gerald Freitag, School Administrators Alliance (SAA) (December 16, 1998).
2. Memorandum, *Position regarding designing a uniform school calendar*, Edward J. Lump, Executive Vice President/CEO, Wisconsin Restaurant Association, President-Elect, Wisconsin Tourism Federation (December 16, 1998).
3. Issue Paper, *School Calendar: Collective Bargaining Rights*, Wisconsin Federation of Teachers (December 1998).
4. *School Start Date Laws (By State)*, Ken Cole, Executive Director, Wisconsin Association of School Boards (WASB) (undated).
5. Testimony by Joan Wade Spillner, Director of South Central Instructional Network Group (SCING) (December 16, 1998).
6. Memorandum, *School Calendar*, Gerald Freitag, District Administrator, Franklin Public Schools (December 16, 1998).
7. Testimony by WASB Executive Director Ken Cole (December 16, 1998).
8. Chart, *BadgerNet Full Motion Video Network* (undated).



9. *SCING South Central Instructional Network Group, 1998-99 Calendar* (undated).
10. Testimony of Susan Donaldson, President, The House on the Rock and The House on the Rock Inn (undated).
11. Testimony of Robert West, Wisconsin Education Association Council, Director of Collective Bargaining (December 16, 1998).
12. Letter, from Bill Cosh, Legislative Services Coordinator, WASB (December 22, 1998).
13. Memorandum, *August tourism season*, from Chairperson Joe Handrick (January 8, 1999).
14. Letter, from Gina Frank-Reece, Director, Department of Public Instruction (DPI) Policy and Budget (January 19, 1999).
15. Packet of materials, *Information Received from the Wisconsin Department of Tourism* (undated).
16. Report, *September 1st Legislation Wisconsin Tourism Federation*, prepared by the Chamberlain Research Consultants (January 1999).
17. Letter, from John T. Benson, State Superintendent, DPI (January 5, 1999).
18. Memorandum, *My ideal school calendar (thinking outside the box)*, from Jo Gehl (March 3, 1999).
19. *The School Calendar in the Next Century*, the School Administrators Alliance (undated).
20. Memorandum, *School Calendar Committee Alternative*, from Chairperson Joe Handrick (undated).
21. Article, "Don't Make Schools the Prisoners of Time," *Wisconsin School News*, by Ken Cole, Executive Director, WASB (January 1999).
22. Memorandum, *Tourism Survey Relating to School Start Date*, from Annette Talis, Legislative Services Coordinator, WASB, and Jennifer Kammerud, Director of Government Relations, SAA (March 22, 1999).